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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

PIERCE, DAMON JOSEPH

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

11/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Response to Amendment

1. The examiner acknowledges the amendments of claims filed on 7/10/09. Claims 1-24, 37-39, 44-46, 67, 90-93, 121, and 134-142 are cancelled. Currently, claims 25-36, 47-66, 68-89, 94-120, and 122-133 are pending.

Election/Restrictions

Please note: A restriction requirement is being made at this time due to the applicant's amendments and examiner's understanding of the differences and distinctions of the amended claim language.

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
- I. Claims 25-36, and 80-89, 94-100, drawn to a method and an apparatus for operating a gaming machine, classified in class 726, subclass 3.
 - II. Claims 47-66, 68-79, 101-120 and 122-133, drawn to a method and an apparatus for verifying gaming terminal software, classified in class 726, subclass 26.

The inventions are distinct, each from the other because of the following reasons:

3. Inventions I and II are directed to related processes and products. The related inventions are distinct if: (1) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect; (2) the inventions do not overlap in scope, i.e., are mutually exclusive; and (3) the

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inventions as claimed are not obvious variants. See MPEP § 806.05(j). In the instant case, the inventions as claimed can have a materially different design, mode of operation, function, or effect because Invention I provides and installs a trusted verification driver in a gaming machine, and downloads a software module into a gaming machine, whereas, Invention II, blocks the execution of an operating system of the gaming machine, and takes complete control of the gaming machine with at least one driver. Furthermore, the inventions as claimed do not encompass overlapping subject matter and there is nothing of record to show them to be obvious variants.

4. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;
- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;

(e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

If claims are added after the election, applicant must indicate which of these claims are readable upon the elected invention.

Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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5. After electing one of the above Inventions of I, or II, an election of species is also required within the elected Invention based on the following species from both of the below groups.

This application contains claims directed to the following patentably distinct species:

Group I

I. The species of Fig. 8

II. The species of Fig. 9

III. The species of Fig. 10

Group II

IV. The species of Fig. 11

V. The species of Fig. 12

VI. The species of Fig. 13

VII. The species of Fig. 14

The species are independent or distinct because claims to the different species recite the mutually exclusive characteristics of such species. Note, in the original specification of instant application see pg. 9, which identifies Figs 8-10 as alternative embodiments; similarly, the original specification of instant application also identifies Figs. 11-14 as alternative embodiments. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there are no generic.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected species**, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are

added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAMON PIERCE whose telephone number is (571)270-1997. The examiner can normally be reached on 8AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry Suhol/
Supervisory Patent Examiner, Art
Unit 3714

DJP